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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

2005 MAR 25 P 3: 04

JEFF HATCH-MILLER, Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

AZ CORP COMMISSION  
DOCUMENT CONTROL

In the matter of:

**YUCATAN RESORTS, INC.,**

3222 Mishawaka Avenue.

South Bend, IN 46615;

P.O. Box 2661

South Bend, IN 46680;

Av. Coba #82 Lote 10, 3er. Piso

Cancun, Q. Roo

Mexico C.P. 77500

**YUCATAN RESORTS, S.A.,**

3222 Mishawaka Avenue.

South Bend, IN 46615;

P.O. Box 2661

South Bend, IN 46680;

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**RESORT HOLDINGS INTERNATIONAL,  
INC.,**

3222 Mishawaka Avenue

South Bend, IN 46615;

P.O. Box 2661

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DOCKET NO. S-03539A-03-0000

SECURITIES DIVISION'S OBJECTION  
TO RESPONDENT'S JOINT MOTION  
TO COMPEL

Arizona Corporation Commission  
**DOCKETED**  
MAR 25 2005

DOCKETED BY

KS

1 **WORLD PHANTASY TOURS, INC.,** )

2 **a/k/a MAJESTY TRAVEL** )

3 **a/k/a VIAJES MAJESTY** )

4 Calle Eusebio A. Morales )

5 Edificio Atlantida, P Baja )

6 APDO, 8301 Zona 7 Panama, )

7 **AVALON RESORTS, S.A.** )

8 Av. Coba #82 Lote 10, 3er. Piso )

9 Cancun, Q. Roo )

10 Mexico C.P. 77500 )

11 **MICHAEL E. KELLY and LORY KELLY,** )

12 husband and wife, )

13 29294 Quinn Road )

14 North Liberty, IN 46554; )

15 3222 Mishawaka Avenue )

16 South Bend, IN 46615; )

17 P.O. Box 2661 )

18 South Bend, IN 46680, )

19 Respondents. )

20  
21 The Securities Division of the Arizona Corporation Commission ("Securities Division")  
22 objects to the Respondents', Resort Holding International, Inc. ("RHI Inc."), Resort Holding  
23 International, S.A. (RHI S.A."), Yucatan Resorts, Inc. ("Yucatan Inc."), and Yucatan Resorts, S.A.  
24 (Yucatan S.A."), (collectively, the "Respondents") Joint Motion to Compel because the Hearing  
25 Division of the Arizona Corporation Commission ("Hearing Division") is the improper forum. The  
26 Securities Division requests that the Joint Motion to Compel be dismissed.

### 21 ***Discussion***

22 According to the public records laws of Arizona, "any person who has requested to  
23 examine or copy public records pursuant to the provision of this article, and who has been denied  
24 access to or the right to copy such records, may appeal the denial through a special action in the  
25 superior court, pursuant to the rules of procedure for special actions against the officer or public  
26 body." A.R.S. § 39-121.02(A) (emphasis added).

1 Jeff Gardner ("Gardner") submitted a public records request on November 15, 2004, and  
2 clarified his request on December 2, 2004. The Securities Division responded to this public  
3 records request on January 21, 2005, on March 3, 2005, and on March 15, 2005, by making  
4 documents available and by producing an index of records. If Gardner believes he was denied  
5 access to public records, then he should pursue the appropriate recourse through a special action in  
6 the superior court in accordance with A.R.S. § 39-121.02.

7 Preceding and paralleling the abovementioned public records request, Respondents sought  
8 the same information through numerous discovery requests and petitioned the Hearing Division to  
9 compel production. In a series of procedural orders, the presiding administrative law judge  
10 addressed and denied Respondents' discovery requests. See Hearing Division's Tenth Procedural  
11 Order (March 17, 2005).

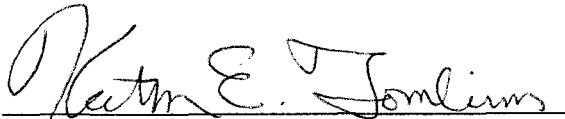
12 The presiding administrative law judge agreed with the Securities Division's position that  
13 due process in an administrative law proceeding requires notice, a hearing and an impartial trier of  
14 fact but does not require the use of discovery as in a civil court proceeding. *Id.* The presiding  
15 administrative law judge has addressed Respondents' motions as they pertain to discovery  
16 requests. The hearing ordered by the presiding administrative law judge to commence on March  
17 28, 2005, will afford Respondents due process of law.

### 18 ***Conclusion***

19  
20 Any recourse the Respondents would like to address regarding public records requests  
21 should be addressed in the appropriate jurisdiction in accordance with the public records laws of  
22 Arizona. A.R.S. § 39-101 through A.R.S. § 39-161. Respondents' Joint Motion to Compel filed  
23 in the inappropriate forum with the Hearing Division appears nothing more than a tactic to delay  
24  
25  
26

1 and to unduly interfere with the scheduled hearing ordered by the presiding administrative law  
2 judge to commence on March 28, 2005. For the foregoing reasons, the Securities Division objects  
3 to the Joint Motion to Compel and requests that the motion be dismissed.

4  
5 RESPECTFULLY SUBMITTED this 25th day of March, 2005.

6  
7 By   
8 Kathryn E. Tomlinson  
9 Attorney for the Securities Division of the  
10 Arizona Corporation Commission  
11  
12  
13  
14

15 ORIGINAL AND THIRTEEN (13) COPIES of the foregoing  
16 filed this 25th day of March, 2005, with

17 Docket Control  
18 Arizona Corporation Commission  
19 1200 West Washington  
20 Phoenix, AZ 85007

21 COPY of the foregoing hand-delivered this  
22 25th day of March, 2005, to:

23 Mr. Marc Stern  
24 Hearing Officer  
25 Arizona Corporation Commission/Hearing Division  
26 1200 West Washington  
Phoenix, AZ 85007

1 COPY of the foregoing faxed and mailed  
2 this 25th day of March, 2005, to:

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